

# NICHE MARKETING: THE WHY AND HOW

By Edward Poll

Many attorneys, maybe even most and especially solo practitioners, are generalists. They do a little bit of everything and basically follow the opinion of sci-fi writer Robert Heinlein: “Specialization is for insects.”

For others, however, specialization is the key to survival. They dive into one area, become experts at it, and market that expertise to all who will listen, often with great success.

While there are no reliable statistics that show how many practitioners are in niche (or boutique) practices, it is clear that lawyers’ earlier efforts to become more focused have had an impact. There are lawyers who practice only in the family law field, others practice only in personal injury, and still others practice only in criminal defense, etc. Many of the more sophisticated practices areas—such as intellectual property law or employment law—that used to be thought of as niche or boutique areas, have now been acquired by larger firms in order to provide broader service coverage for their clients.

Another factor impacting the earlier trend toward specialization or niche practice areas is the current economic crisis. With tougher times facing lawyers, with more competition for a seemingly smaller client pool, and with clients wanting to deal with one lawyer/law firm (not many), lawyers are being compelled to become generalists once again.

There is a difference, however, between the work a lawyer does and the work a lawyer will heavily market. That’s why, today, marketing your expertise in, for example, family law does not mean that that very same client can’t be informed that the law firm also prepares estate plans.

## Why Niche Marketing?

**1. Niche marketing gives you an edge.** It differentiates you from all the other attorneys looking for a slice of the pie. When being

remembered is a key to being engaged, niche marketing can make the difference.

In an interview in “Law Practice Management Review: the Audio Magazine for Busy Attorneys,” California attorney Mark Bernstein of the Fresno firm Nunez & Bernstein discussed how he has become an expert in the law of bail bonds. His practice grew as he represented more bondsmen until today, he is known as the leader in the field and is asked to advise trade associations, legislators considering new laws and others. “I’ve developed a reputation,” Bernstein explains, “and more and more bondsmen come to me now for legal help of all kinds.”

**2. Niche marketing can result in a client base that is of particular interest to you.** This can lead to more satisfaction with your practice, a goal many lawyers would like to achieve. Bryan Schwartz is the managing partner of the mid-size (40-lawyer) firm Levenfeld Pearlstein in Chicago that has developed a gay and lesbian market niche. He explains in another “Law Practice Management Review” interview that, “We’ve had virtually no defections since we added our new niche focus. In fact, we had people who weren’t originally on the same page about this but who now are our greatest supporters in saying ‘Hey, I have this opportunity over here, or we should talk to this group or this person or this affiliation.’”

**3. Niche marketing can yield unexpected results.** After New York mega-firm Skadden, Arps, Slate, Meagher & Flom LLP decided to emphasize the merger-and-acquisition deals it seemed to be doing more of, it became known as the premier M & A firm in the United States. Then a funny thing happened. Clients and poten-

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tial clients thought that if the firm could handle such huge deals, then why couldn't they also handle other, even smaller, transactions? Even though it never promoted itself as a full-service general practice firm, Skadden became just that and increased its size considerably.

### How Niche Marketing?

There are as many ways to niche market as there are lawyers. While some lawyers fall into niche marketing by accident, others need to plan and prepare well for it. Here are 3 basic steps to move you down the path to niche marketing:

#### 1. Know Who You Are

When Levenfeld Pearlstein's Bryan Schwartz was looking for ways to grow the firm, he started investigating the potential of the gay and lesbian market. "We found that this particular market was consistent with who we were as an 'enlightened' firm," he says, also explaining that only one of the firm's many partners is gay. "You can't really have a vision for your company unless you determine your current reality. We largely represent emerging growth companies and middle-market businesses. We don't represent fortune 500 companies, public companies, and the like. If we diluted ourselves and thought we were a national firm or even a regional firm, we'd have a big problem.

"We know who we are, and we're comfortable with that. And so the gay and lesbian community presented an opportunity for us, and we found that this market really was not being served by firms of our size."

Mark Bernstein adds, "You really have to search out what you're comfortable with," he explains. "My ex-wife, who's also a lawyer, recently said to me, 'You're the only lawyer I know who never does any discovery.' That's true, and I can tell you that if I had to do discovery, I probably wouldn't be a lawyer! I've found a niche that just suits my personality. I write a lot of briefs. I go to a lot of courts. But none of my files are more than an inch or two thick. It's just law and motion: I write a motion; I go into court; I argue it, and I win or I lose. My partner does all the appeals!"

But what about consensus and getting everyone in the firm on board? Isn't that harder to do as you narrow your vision to niche markets? "One important thing to realize when you're doing something this different," explains

Schwartz, "is that you're not going to get consensus. If you need to get consensus, you might as well forget about it. There are going to be a certain group of people who do not agree with whatever you're doing. Period. And that's what separates the men and the boys in leadership positions today in law firms. You have to understand that consensus can kill. You have to focus on what the majority think is the right way to go, and then really go after it. Eventually, those minorities who did not agree will get on the same page and support the program, which is exactly what happened to us."

#### 2. Become an Expert, Focus, and Do Your Research

The way to own a niche is to become the recognized leader in it. The need to focus and develop an expertise is clear.

"Obviously, it's a huge advantage to be an expert in something," says Bernstein, the bail agent. "Whenever I'm in court, I know that I know more about this subject than anybody else, be it my opposition or even the judge. And, everybody else knows that too, so it's a big advantage. I also understand that there was some luck involved in my case. I was the right person at the right time who carved out a niche for himself in the world of bail bonds."

Schwartz continues with this theme. "In an era of specialization, generalists have more difficulty competing. When we put someone who eats, sleeps and drinks real estate, as an example, next to some who might only practice maybe twenty percent of the time in that area, there's often a huge difference in the type of sophistication that our firm is able to bring to the matter.

"So, one day we sat down with ourselves and asked: 'What's new, what's different that we can get involved with?' What most lawyers do is they want to find out what everybody else is doing, which is the antithesis of market leadership and good marketing.

"After the gay and lesbian niche was suggested (among many others) by one partner, we started researching it. After studying media accounts of the problems facing gays and lesbians, we did a market study of who was representing the gay and lesbian community. We found that hardly any law firms over five to ten lawyers were, even in markets like San Francisco and New York, where you would expect it.

“That pushed us to investigate further, but without a lot of committee work, because committees would have clearly ruined this. For lawyers, we’re trained to look at all the bad things that could happen, and that often gets in the way of a lot of really good ideas. Instead, what we did was to say, ‘Okay, why would this work?’ Then we set up a small group of people who were positive about why it would work, and we discovered that this could be an incredible niche market for us.”

Naturally, Schwartz faced skepticism and criticism. “‘Why are there no firms our size or greater in this market?’ was asked frequently by some,” he says. “It became abundantly clear that these critics were concerned about what their clients would feel. So, we canvassed our clients. And you know what? Our clients not only had no problem with it, but they thought it was a great idea, and they wanted in themselves!”

“I like to say that our mantra is: ‘If everybody else is doing it, it must be wrong.’ Our approach is to look at markets that everyone else has looked at and decided were not desirable.”

### 3. Market Correctly

“It’s important to focus your efforts on the niche industry and spend more of your marketing time on it,” says Schwartz. “Most lawyers market without a focus, without a plan. What we’ve tried to do as a firm is identify areas and really target them, understand the needs of that industry, and then build our services around those needs.”

Schwartz kicked off his niche marketing campaign by developing a connection to the gay community. “We started representing the gay and lesbian Chamber of Commerce, and so we received some notoriety for that. We then started to put on seminars to raise awareness about this issue in Chicago. We filtered it with some sponsorship in key gay and lesbian groups and those that were particularly sensitive to the issues.

“All this marketing was done on a ‘business-focus’ level. We have grown this area in a relatively quick period of time through a lot of notoriety for being different and also from a real focus within the firm on trying to be good at it.”

Another key for many in niche marketing is just getting

out there in front of people. Bail agent Mark Bernstein gives regular presentations before his trade association. “It’s like free advertising,” he says. “And, I even get paid for it! Although I have some competition teaching my program now, probably 70 to 80 percent of all the bondsmen in California take my classes at least one day a year. That’s a lot of wonderful exposure.”

It helps that Bernstein’s program is now a state law requirement for all bail bondsmen. In fact, he is so busy that he doesn’t even do any normal advertising or promotion. “I had an experience a few years ago where a secretary came to me and said, ‘Mark, do you realize that your name hasn’t been in the phone book for six years?’ It was true. Somehow, when we switched phone companies, I got omitted from the phone book, and it took me six years to discover that. My word-of-mouth marketing was so successful, that I didn’t even have a listed phone number!”

A final tip from experienced niche marketers is to build alliances. “We have strategic alliances with other firms that are sensitive to the areas that we’re practicing in,” says Bryan Schwartz. “One of the important things we try to do as a small firm is make sure that we have the guns in areas outside of our region or our locale. For example, for this gay and lesbian niche, we have affiliated with several firms in the San Francisco area, even though we are predominately, in terms of the geographic location of our client base, a locally-oriented firm.”

Marketing a niche practice can be challenging but also rewarding. Today, Bryan Schwartz’ firm represents many financially elite people in the gay and lesbian community. The firm has grown to double its size since it began its niche marketing effort.

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## QUESTIONS: NICHE MARKETING



1. Economist Adam Smith said, "Specialization is for insects."

True False

2. Statistics clearly demonstrate that most legal practitioners are specialists.

True False

3. Many sophisticated practice areas such as IP have been absorbed by large firms in order to provide a full service approach for clients.

True False

4. When lawyers face tough times economically, with fewer clients in the "pool," they are forced to become generalists.

True False

5. Marketing all of the firm's practice areas is essential to gaining the confidence of clients and all of their legal needs.

True False

6. Marketing one's legal skills need not represent the entire panoply of work done by a lawyer.

True False

7. Niche or specialty marketing differentiates a lawyer and gives him/her an edge in the competitive market place.

True False

8. Specialty legal work can result in a client base that is particularly interesting to the lawyer and, therefore, particularly satisfying.

True False

9. Skadden, Arps, Slate, Meagher & Flom LLP is a law firm specializing in major mergers and acquisitions.

True False

10. There is only one right way to develop niche marketing.

True False

11. In order to be successful at marketing, you must really know who you are and what you're promoting.

True False

12. Bryan Schwartz, in his interview, said that "You can't really have a vision for your company unless you determine your current reality."

True False

13. To be successful in developing a new niche marketing campaign, a larger firm needs consensus amongst its partners.

True False

14. Once you've got a majority of partners in support of your efforts, you've got to focus your energy to achieve your plan.

True False

15. Schwartz said that "...consensus can kill."

True False

16. Recognized leaders in any field are all niche marketers.

True False

17. A generalist always has a difficult time competing with a specialist.

True False

18. Most lawyers first find out what other lawyers and law firms are doing; this is the antithesis of market leadership and good marketing.

True False

19. Research into the market characteristics of the niche and preparation are the keys to successful niche marketing.

True False

20. Bryan Schwartz believes that "If everybody is doing it, it must be wrong."

True False